

described on page 65 and 78. Claims 1-8 and 13 are readable thereon. However, Applicants understand this requirement for election of species to be for initial examination purposes only, in accordance with MPEP §803.02, and not a requirement to restrict the scope of the generic and subgeneric claims of this application to such species. If the Office Action is a requirement to restrict the scope of the generic and subgeneric claims to the elected species, Applicants traverse this requirement. Such a requirement would be improper, for the reasons stated in MPEP §803.02, first paragraph.

### **REMARKS**

The Examiner has made Claims 1-13 subject to a restriction requirement under 35 U.S.C. 121. The Examiner has divided Claims 1-13 into 3 groups, a summary of which follows:

Group I: Claims 1-8 wherein A is N and B is CR4.

Group II: Claims 1-8 wherein A is CR5 and B is N.

Group III: Claims 10 wherein A and B both are N.

Restriction is only proper if the restricted inventions are independent and patentably distinct (35 USC §121) and there is a *serious burden* placed on an Examiner if restriction is not required (MPEP 803). The burden is on an Examiner to provide reasons and/or examples to support any conclusions of patentable distinctness between the restricted inventions (MPEP 803). Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the restricted inventions and that no serious burden is placed on the Examiner if restriction is not required.

Applicants traverse the Examiner's reliance on separate classification for the restriction requirement. Applicants submit the second and third paragraphs of §808.02 provide that when the related inventions are shown to be distinct under the criteria of MPEP §806.05(c) - §806.05(i) then the Examiner may insist on a restriction if the Examiner can demonstrate that the separate subjects have different classifications. In this application the Examiner has not shown that the instant invention is composed of distinct related inventions under the criteria of MPEP § 806.05(c)-806.05(i). Therefore, Applicants submit the Examiner can not reliably use separate classification as a basis for the restriction.